

REMARKS

This Amendment is directed to Paper No. 53, a final Office action issued on 13 September 2003.

Status of Claims

Claims 57 through 63, 117 and 118 were previously canceled without prejudice or disclaimer. By this Amendment, claims 85 through 89 are canceled without prejudice or disclaimer, and claims 1, 6, 11, 14, 70 and 121 are amended. Thus, claims 1 through 56, 64 through 84, 90 through 116, and 119 through 121 are pending in the application. Claims 43 through 45 are withdrawn from consideration.

Claims 25 through 33, 39 through 42, 55, 78 through 84 and 107 have been allowed. By this Amendment, claims 1, 6, 11, 14, 21 through 24, 65, 70, 75, 92, 101, 102, and 121 are amended in various particulars.

Rejection of Claims 11, 90 and 102 under 1st paragraph of 35 U.S.C. §112

Claims 11 through 13, 90 and 120 were rejected under first paragraph of 35 U.S.C. §112 as failing to satisfy the “enablement requirement” of the first paragraph. Applicant repeats the traversal of this rejection set forth in Applicant’s Response of 14 July 2003.

Claims 11-13

The Examiner correctly noted that claim 11 contained a typographic error, namely the phrase

“distal member” was repeated twice. The fact that Applicant does satisfy both the written description and enablement prongs of the first paragraph of 35 U.S.C. §112 by describing how to make and use a “distal member” of Applicant “electrical operator”, as illustrated in at least three embodiments on 106(a), 107(a) and 108(a) in Figure 1, makes this rejection improper under the “enablement” requirement of the first paragraph, despite that fact that claim 11 may be indefinite due to the typographical error. The error has been corrected in Applicant’s Amendment filed simultaneously herewith. Applicant notes however, that there is no rejection under the second paragraph of §112 of claim 11 in the record before the Board. Consequently, in view of the satisfaction of the requirement for enablement of the phrase “distal member”, this rejection may not be sustained under the first paragraph of §112.

Claims 90 and 120

First, Applicant notes that Paper No. 53 contains various assertions that infer that the use of the phrase *at least one*¹ in the Field, *et al.* ‘307 patent means *a plurality or more than one*. The Examiner has cited no authority for this inference. Paper No. 53 has failed to demonstrate that the phrase *at least one*² as used in the Field, *et al.* ‘307 patent defines any number other than *one*. The Examiner’s attention of is invited to the complete absence of authority for the Examiner’s proposition that the phrase *at least one* means any number other than *one*. The Examiner’s attention

¹ Claim 1 of Field, *et al.* ‘307 reads, in part, “wherein *at least one* electromechanical locking member is disposed within the barrel” Column 9, lines 5 and 6.

² Claim 1 of Field, *et al.* ‘307, column 9, lines 5 and 6.

is also invited to Applicant's Figure 1 which displays an array of at least three electromechanical locking members 106a, 107a and 108a, all of which satisfy the definition of a locking member given by Field, *et al.* '307 in column 5, lines 1 through 8, and all or any one of which might be borne by Applicant's array of apertures 80, 82.

Second, Paper No. 53 also states that,

"the instant specification fails to provide support for the "at least one electromechanical locking member"³

The Examiner's attention is invited to the fact that the Office has long since ruled that Applicant's armature spring constituted an "electrical operator", and to explain in a supplemental to Paper No. 52, the difference between an "electrical operator" and an "electromechanical locking member".

Third, the Examiner's attention is invited to the description of the *electromechanical locking member* given by Field, *et al.* '307:

"[a] plurality of electromechanical locking members 50, 52, 54 preferably are located within the central recess portion 42. The locking members are referred to as electroomechanical because, as described below, there are moved under the force of an electronically powered drive mechanism."⁴

Wholly absent from Field, *et al.* '307 is any attribution of any electromechanical characteristic or

³ Paper No. 53, page 2, paragraph 3.

⁴ Field, *et al.* '307, col. 5, lines 65 through 67, and col. 6, lines 1 and 2.

property to elements 50, 52, 54; Field, *et al.* '307 describes elements 50, 52, 54 as a passive element. In contradistinction, Applicant's locking pin 201a is disclosed as a mechanical component made of a ferromagnetic material such as iron, that is moved under the force created by an electronically powered drive mechanism, namely coil 201b. Alternatively, Applicant's "armature 106a"⁵ contains at least one of the "grooves or slots 51, 53, 55" attributed by Field, *et al.* '307 to his "locking members 50, 52, 54."⁶ Wholly absent from Paper No. 52 is any explanation of why slots 51, 53, 55 in Field, *et al.* '307 convert each of elements 50, 52, 54 into "at least one electromechanical locking member", while slots 107c, 108h and grooves 105n of Applicant's electromechanical components 105D, 106a, 107a and 108a do not similarly convert Applicant's electromechanical components into "electromechanical locking members", when Applicant's electromechanical components 105D, 106a, 107a and 108a are disclosed as responding to an electrically driven motor or solenoid by exhibiting movement relative to a detent, or to a sidebar, or other obstruction?

Absent any basis for the Examiner's inference⁷, paper No. 52 fails to satisfy the standard required under 37 CFR §1.104, and is incomplete to the extent that Applicant can not reasonably and accurately comply with the requirement for a Request under 37 CFR §1.607. Accordingly, and in compliance with 37 CFR §1.104(a) and (b), Applicant has previously requested a supplemental to Paper No. 53, containing:

- An explanation of the meaning of the phrase *at least one*.

⁵ Shown in Figures 2 and 3.

⁶ Field, *et al.* '307, col. 5, lines 5 and 6.

⁷ See, for example, Paper No. 53, paragraph 3.

- Identification of authority that establishes that the phrase *at least one* indicates a number greater than one under the second paragraph of 35 U.S.C. §112.
- Identification of authority that supports the Examiner's explanation in the supplemental Paper No. 53 of the meaning of the phrase *at least one* stated by the Examiner.
- A written explanation of the difference between an "electricomechanical locking member" and Applicant's "armatures" and "locking pins", as those terms pertain to this application.
- A written identification of the column and line number of Field, *et al.* '307 given an explanation of any *electromechanical* property and characteristic of elements 50, 52 and 54 the difference between an "electrical element", as those terms pertain to this application.
- A written explanation by the Examiner of why slots 51, 53, 55 in Field, *et al.* '307 convert each of elements 50, 52, 54 into "at least one electromechanical locking member", while slots 107c, 108h and grooves 105n of Applicant's electromechanical components 105D, 106a, 107a and 108a do not similarly convert Applicant's electromechanical components into "electromechanical locking members", when Applicant's electromechanical components 105D, 106a, 107a and 108a are disclosed as responding to an electrically driven motor or solenoid by exhibiting movement relative to a detent, or to a sidebar, or other obstruction?

In view of the foregoing explanation, withdrawal of these rejections is respectfully requested.

Rejection of Claims 1-10, 14-25, 35-38, 70-74, 106, 111 & 121
under the 2nd Paragraph of 35 U.S.C. § 112

Claims 1 through 10 were rejected under the second paragraph of 35 U.S.C. §112 as being possibly indefinite based upon questions of antecedent basis. Although questions of antecedent basis alone do not render a claim indefinite if the claim is otherwise understandable, Applicant has accepted the Examiner's suggested amendments in each instance.

Additionally, the Examiner noted that the rejection of claims 6, 14 and 17 was "reiterated". Applicant understands the Examiner is objecting to the previous use of the noun "via"; Applicant notes that "via" both a noun and a proposition. Its presence in these claims was entirely correct as a matter of grammar, but Applicant has removed the noun in earlier amendments, in accordance with the Examiner's request.

Claim 121 is amended to simply delete the noun "detent" in line 6, and return the nouns in lines 14, 15 and 16 to "bar" instead of "detent", in order to assure correct antecedent basis throughout. Should the Examiner desire otherwise however, the Examiner may substitute "detent" for "bar" in line 6, which would minimize the number of amendments. As presented however, this Amendment simply corrects the typographic error in Applicant's Amendment of the 24th of February 2003.

Claim 14 is amended in one instance, in line 6, to substitute "a" for "said".

In view of the foregoing amendments and remarks, the foregoing address rejections are rendered moot.

Entry of the foregoing amendment under 37 C.F.R. §1.116(b) is proper, because these amendments remove all issues under both the first and second paragraphs of 35 U.S.C. §112, for purposes of appeal.

No fee is incurred by this Amendment. Should other fees be incurred however, the Commissioner is authorized to charge Deposit Account No. 02-4943 of Applicant's undersigned attorney in the amount of such fees.

Respectfully submitted,



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